## REMARKS

Prior to submission of this amendment, claims 1-54 were pending in the application. Applicants have withdrawn claims 16-24 and 32-34. Applicant have deleted claims 38 and 53. Applicants have added new claim 55. Applicants have amended claim 1 to recite the elected gene (AREG) and have amended claim 2 to recite the other genes recited in original claim 1. Applicants have amended claim 5 to recite the method of claim 39. Applicants have amended claims 25 and 35 to recite the elected gene (AREG) and have added new claim 55 to recite the other genes recited in original claim 35. Applicants have corrected misspellings in claim 36. Applicants have amended claims 5 and 39 to recite reference genes. Support for this amendment can be found in the specification at, for example, paragraph [0024]. No new matter is added. In addition, the amendments to the claims presented above are being made without prejudice to filing a continuation/division application directed to the non-elected subject matter.

Restriction Requirement

The PTO requires the restriction of the claims in the above-identified application into one of the following thirty groups of claims. Group I includes claims 1-10,1 13-15, 25-31, 35-50 and 52-54 drawn to a method of prognosis of treatments with an EGFR inhibitor comprising determining the expression level of one or one combination of RNA transcripts selected from a group of STAT5A, STAT5B, WISP1, CKAP4, FGFR1, cdc25A, RASSF1, G-Catenin, H2AFZ, NME1, NRG1, BCl2, TAGLN, YB-1, Src, IGF1R, CD44, DIABLO, TIMP2, AREG, PDGFRa, CTSB, Hepsin, ErbB3, MTA1, Gus, and VEGF. Group II includes claims 1-9, 11-12, 14-15, 35-38, 46-68 and 50-54 drawn to methods of prognosis of treatments with an EGFR inhibitor comprising determining the expression level of one or one combination of RNA transcript "expression products" selected from the group consisting of STAT5A, STAT5B, WISP1, CKAP4, FGFR1, cdc25A, RASSF1, G-Catenin, H2AFZ, NME1, NRG1, BCl2, TAGLN, YB-1, Src, IGF1R, CD44, DIABLO, TIMP2, AREG, PDGFRa, CTSB, Hepsin, ErbB3, MTA1, Gus, and VEGF. Group III includes claims 16-24 drawn to an array as the claims read on polynucleotides hybridizing to one combination of genes selected from STAT5A, STAT5B, WISP1, CKAP4, FGFR1, cdc25A, RASSF1, G-Catenin, H2AFZ, NME1, NRG1, BCl2, TAGLN, YB-1, Src, IGF1R, CD44, DIABLO, TIMP2, AREG, PDGFRa, CTSB, Hepsin, ErbB3,

MTA1, Gus, and VEGF. Groups IV-XXX include claims 32-34 drawn to a method for amplification of one gene using one amplicon from Table 3 and one primer-probe set from Table 4 and the corresponding polynucleotides.

Applicant elects for examination the claims of Group I, claims 1-10, 13-15, 25-31, 35-50 and 52-54 and 55 (new) drawn to a method of prognosis of treatments with an EGFR inhibitor comprising determining the expression level of one or one combination of RNA transcripts.

Applicant disagrees with the restriction between Group I and Group II. Applicants note that the search conducted for Group I and Group II is identical since the same gene must be searched for both groups. Accordingly, there is no additional burden placed on the Examiner in removing the restriction between Group I and Group II. Withdrawal of this restriction requirement is requested.

The Office Action indicates that Group I is comprised of multiple independent and/or distinct inventions recited in the alternative which are the products or methods drawn to different polynucleotides /polypeptides which allegedly do not render obvious each other and thus are patentably distinct. Applicant is requested to elect a single invention which is the product or method drawn to one specific polynucleotide/polypeptide combination to which the claims will be restricted.

Applicant elects for examination the gene AREG.

Species Election

The Office Action indicates that the applications contains claims directed to the following patentably distinct species:

1. type of cancer/cancer cell utilized (choose from ovarian cancer, colon cancer, pancreatic cancer, non-small cell lung cancer, breast cancer, and head and neck cancer as in claims 6, 29-30, 36 and 38).

Applicant elects colon cancer.

2. type of EGFR inhibitor (choose from a) an antibody or antibody fragment as in claim 14 or b) a small molecule as in claim 15).

Applicant elects antibody or antibody fragment.

3. a method of analysis/normalization for the sample (choose from a) normalization with one or one combination of housekeeping genes as in claims 39-40 or b) global gene expression analysis as in claims 41-45).

Applicant elects the method of normalization with one or one combination of housekeeping genes.

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. **08-1641** referencing Attorney's Docket No: 39740-0009.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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